

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESale PRICE)
LITIGATION)
_____)
)

THIS DOCUMENT RELATES TO:)

United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Abbott Laboratories,)
Inc., Civil Action No. 06-11337-PBS;)

MDL No. 1456

Civil Action No. 01-12257-PBS

Hon. Patti B. Saris

United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Dey, Inc., et al., Civil)
Action No. 05-11084-PBS; and)

United States of America ex rel. Ven-a-Care of)
the Florida Keys, Inc. v. Boehringer)
Ingelheim Corp., et al., Civil Action No. 07-)
10248-PBS)
)
)

NOVEMBER 2008 STATUS REPORT OF THE UNITED STATES AND THE RELATOR
VEN-A-CARE OF THE FLORIDA KEYS

The United States of America (“United States”) and Ven-A-Care of the Florida Keys, Inc. (“Ven-A-Care” or the “Relator”), Plaintiffs, through their undersigned counsel, respectfully file the attached Status Report for November 2008, in accordance with the Court’s June 17, 2004, Procedural Order.

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc., v. Abbott Laboratories, Inc. MDL Docket Number 06-11337 Original Jurisdiction: U. S. District Court Southern District of Florida		
Item No.	Pending Motions	Hearing Date
1.	<p>(Docket #5112 and #5115) Abbott Laboratories, Inc.'s Motion to Compel Testimony of Government Witnesses and Memorandum of Law</p> <p>1. (Docket #5144) Memorandum by United States in Opposition to Abbott's Motion</p> <p>2. (Docket #5151) Abbott Laboratories, Inc.'s Unopposed Motion for Leave to File Reply</p>	
2.	<p>(Docket #5128 and #5129) United States' Motion to Quash the Subpoenas of Ira Burney and Debbie Chang and in Support of a Protective Order and Memorandum of Law</p> <p>3. (Docket #5135) Abbott Laboratories Inc.'s Opposition to Motion</p> <p>• (Docket #5149) Motion for Leave to File the United States' Reply to Abbott Laboratories Inc.'s Opposition</p>	
3.	<p>(Docket #5156 and #5157) United States' Motion for a Protective Order Regarding Abbott's Rule 30(b)(6) Notices and Memorandum of Law</p> <p>• (Docket #5177) Defendant Abbott Laboratories, Inc.'s Response to the United States' Motion</p> <p>• (Docket #5202) United States' Unopposed Motion for Leave to Reply to Abbott Laboratories Inc.'s Opposition</p>	
4.	<p>(Docket #5173) Abbott Laboratories, Inc.'s Motion to Compel Production of Documents from the United States</p> <p>• (Docket #5254) Memorandum by the United States in Opposition to Abbott's Motion</p> <p>• (Docket #5275) Motion for Leave to File Reply in Support of Motion by Abbott Laboratories, Inc..</p>	

5.	<p>(Docket #5174 and #5175) Abbott Laboratories, Inc.'s Motion to Compel Sufficient Responses to Abbott's Requests for Admissions and Memorandum of Law</p> <ul style="list-style-type: none"> ● (Docket #5255) United States Response to Abbott Laboratories, Inc.'s Motion to Compel 	
6.	<p>(Docket s #5179 and #5180) United States' Motion to Compel the Production of Documents and Deposition Testimony and Memorandum of Law</p> <ul style="list-style-type: none"> ● (Docket #5258) Abbott Laboratories Inc.'s Response in Opposition to Plaintiff's Motion to Compel ● (Docket #5273) Motion for Leave to File Reply to Abbott's Response to the United States' Motion with attached Reply 	
7.	<p>(Docket # 5276) Abbott Laboratories Inc.'s Motion to Enforce the February 16, 2007 Protective Order and for Order Compelling Plaintiff to Return Inadvertently Produced Privileged Documents</p> <ul style="list-style-type: none"> ● (Docket #5344) United States' Opposition to Abbott's Motion ● (Docket #5360) Sealed Document - Exhibits A and B to [5344] Filed by United States ● (Docket # 5397) Abbott Laboratories Inc.'s Motion for Leave to File Reply ● (Docket # 5424) United States' Unopposed Motion for Leave to File Sur-Reply 	
8.	<p>(Docket #5609 and 5610) United States' Motion to Require Defendant Abbott Laboratories, Inc. to Comply with Its Discovery Obligations and Related Court Orders and Memorandum of Law</p> <ul style="list-style-type: none"> ● (Docket 5628) Abbott Laboratories, Inc.' Consent Motion for Extension of Time to October 13, 2008 to File Opposition ● (Docket 5630) Abbott's Opposition to Motion 	

	United States of America ex rel. Ven-A-Care of the Florida Keys, Inc. v. Dey, Inc., et al., MDL Docket No. 05-11084-PBS Original Jurisdiction: United States District Court, District of Massachusetts	
Item No.	Pending Motions	Hearing Date
1.	<p>(Docket # 5356 and #5357) United States' Motion for a Protective Order Regarding the Dey Defendants' Rule 30(b)(6) Notice and Memorandum of Law</p> <ul style="list-style-type: none"> • (Docket # 5386) Defendants Dey, Inc., Dey L.P., and Dey L.P., Inc.'s Consent Motion for Enlargement of Time • (Docket # 5394 and #5395) Memorandum of Law and Declaration in Opposition of the Government's Motion for a Protective Order Relating to the Requests By the Dey Defendants for Deposition Under Rule 30(b)(6) • (Docket # 5439) Unopposed Motion By the United States for Leave to File a Reply Memorandum in Support of Its Motion for a Protective Order Relating to the Requests By the Dey Defendants for Deposition Under Rule 30(b)(6) 	
2	(Docket # 5642 and #5643) United States Motion for Discovery to Take Deposition of Prison Inmate Michael T. Ricks	

	United States of America ex rel. Ven-A-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp., et al., MDL Docket No. 07-10248-PBS Original Jurisdiction: United States District Court, District of Massachusetts	
Item No.	Pending Motions	Hearing Date
1.	<p>(Docket #78) Relator's Objections to the September 26, 2008 Order by the Magistrate Judge on the Roxane Defendants' Joint Motion to Compel Production of Relator Ven-a-care's Disclosure Statement and Any Subsequent Amendments</p> <p>(Docket #80) United States Objection to Order on Motion to Compel</p> <ul style="list-style-type: none"> ● (Docket #82) Roxane Defendants' Response by Boehringer Ingelheim to Objections ● (Docket #87) Relator's Assented to Motion for Leave to File Reply to Roxane Defendants' Response to Objections to the September 26, 2008 Order by the Magistrate Judge 	
2.	(Docket #83 and #84) United States Motion and for Leave to File Amended Complaint and Memorandum of Law	

Respectfully Submitted,

For the United States of America,

MICHAEL J. SULLIVAN
UNITED STATES ATTORNEY

/s/ George B. Henderson, II
George B. Henderson, II
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
Suite 9200, 1 Courthouse Way
Boston, MA 02210
Phone: (617) 748-3272
Fax: (617) 748-3971

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

/s/ Mark A. Lavine
Mark A. Lavine
Ann St. Peter-Griffith
Special Attorneys for the Attorney General
99 N.E. 4th Street, 3rd Floor
Miami, FL 33132
Phone: (305) 961-9003
Fax: (305) 536-4101

GREGORY G. KATSAS
ASSISTANT ATTORNEY GENERAL

/s/ Renée Brooker
Daniel R. Anderson
Renée Brooker
Justin Draycott
Rebecca A. Ford
Gejaa T. Gobena
Civil Division
Commercial Litigation Branch
P. O. Box 261
Ben Franklin Station
Washington, D.C. 20044
Phone: (202) 307-1088
Fax: (202) 307-3852

For the relator, Ven-A-Care of the Florida
Keys, Inc.,

/s/ Alison W. Simon
James J. Breen
Alison W. Simon
The Breen Law Firm, P.A.
3350 S.W. 148th Avenue, Suite 110
Miramar, FL 33027
Tel: (954) 874-1635
Fax: (954) 874-1705

November 3, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above "NOVEMBER 2008 STATUS REPORT OF THE UNITED STATES AND THE RELATOR VEN-A-CARE OF THE FLORIDA KEYS" to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Mark Lavine

Dated: November 3, 2008